

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION
4 - - -

5 JEFFREY DENTON, ET AL., :

6 PLAINTIFFS, :

7 -VS- : CASE NO. C-1-02-466

8 COLUMBIA OLDSMOBILE, :

9 ET AL., :

10 DEFENDANTS. :
11 - - -

12 Deposition of ANDRE LARON TUCKER, a
13 plaintiff herein, taken by the defendants as upon
14 cross-examination pursuant to the Federal Rules of
15 Civil Procedure and pursuant to agreement and
16 stipulations hereinafter set forth at the offices
17 of Ivan L. Tamarkin, Esq., 830 Main Street, Suite
18 999, Cincinnati, Ohio, at 2:55 p.m. on Tuesday,
19 November 5, 2002, before Lois A. Roell, RMR, a
20 notary public within and for the State of
21 Kentucky.
22 - - -
23
24

Spangler Reporting Services, Inc.

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1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 Ivan L. Tamarkin, Esq.

4 830 Main Street, Suite 999

5 Cincinnati, Ohio 45202

6 On behalf of the Defendants:

7 Jay R. Langenbahn, Esq.

8 of

9 Lindhorst & Dreidame Co., LPA

10 312 Walnut Street, Suite 2300

11 Cincinnati, Ohio 45202

12 Also Present:

13 Jeffrey Denton

14
15 S T I P U L A T I O N S

16 It is stipulated by and between counsel
17 for the respective parties that the deposition of

18 ANDRE LARON TUCKER, a plaintiff herein, may be

19 taken as upon cross-examination pursuant to the

20 Federal Rules of Civil Procedure and pursuant to

21 agreement; that the deposition may be taken in

22 stenotypy by the notary public-court reporter and

23 transcribed by her out of the presence of the

24 witness; that the jurisdiction of the notary

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public-court reporter is waived; that the
transcribed deposition is to be submitted to the
witness for his examination and signature, and
that signature may be affixed out of the presence
of the notary public-court reporter.

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I N D E X

WITNESS CROSS-EXAMINATION

Andre Laron Tucker 5

- - -

E X H I B I T S

DEFENDANTS' EXHIBITS MARKED

No. 1, a 2-page document entitled 38

"Application for Employment."

No. 2, a xerox copy of an Ohio driver's 41

license and a Social Security card.

No. 3, a document entitled "Payroll 41

Change" dated October 5, 1999.

No. 4, a document entitled "Payroll 43

Change" dated February 24, 2000.

No. 5, a document entitled "Employee's 45

Withholding Allowance Certificate."

No. 6, a document entitled "Employee 45

Disciplinary Report" dated 3/16/00.

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No. 7, a document containing the sentence

58

"You are being terminated as of June

26, 2000 for your continual harassment

and threatening of fellow employees."

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1 (Witness sworn.)

2 MR. LANGENBAHN: Sir, my name is
3 Jay Langenbahn, I represent Columbia Oldsmobile
4 relative to this suit that you filed in the
5 Federal District Court against them. I'm going to
6 ask you some questions. If you don't understand
7 my question, please tell me, I'll attempt to
8 clarify the question. If the question calls for a
9 yes or no answer, please state audibly yes or no
10 so the court reporter can get your answer on the
11 record. Okay?

12 THE WITNESS: (Nodding head.)

13 MR. LANGENBAHN: You need to say
14 yes to --

15 THE WITNESS: Oh, yes.

16 MR. LANGENBAHN: If I ask you a
17 question, you need to respond verbally, okay?

18 THE WITNESS: Okay.

19 ANDRE LARON TUCKER
20 of lawful age, a plaintiff herein, being first
21 duly sworn as hereinafter certified, was examined
22 and deposed as follows:

23 CROSS-EXAMINATION

24 BY MR. LANGENBAHN:

1 Q. State your name, please.

2 A. Andre Tucker.

3 Q. Do you have a middle name?

4 A. Laron.

5 Q. And what's your present residence
6 address?

7 A. 3727 Zinsle, Z I N S L E.

8 Q. Zinsle?

9 A. Z I N S L E, Zinsle.

10 Q. Avenue?

11 A. Yes.

12 Q. Where is that?

13 A. Kennedy Heights, 45213.

14 Q. And, sir, how old are you?

15 A. Twenty-five.

16 Q. And your date of birth?

17 A. 1/29/77.

18 Q. And your Social Security number?

19 A. 270-74-5634.

20 Q. And where were you born?

21 A. Cincinnati, Ohio.

22 Q. Have you been a lifelong resident of
23 Cincinnati?

24 A. Yes.

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1 Q. And how far did you go in school?

2 A. Twelve.

3 Q. What school?

4 A. Woodward.

5 Q. And what year did you graduate from
6 Woodward High School?

7 A. I didn't come out of there.

8 Q. You didn't graduate?

9 A. No.

10 Q. So you've gone 12 years, but you
11 didn't graduate?

12 A. No.

13 Q. So you don't have a high school
14 diploma?

15 A. No.

16 Q. Do you have a GED?

17 A. No.

18 Q. Do you have any military service?

19 A. No.

20 Q. What year did you attend the 12th
21 grade at Woodward?

22 A. 1994.

23 Q. Are you married?

24 A. No.

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1 Q. Have you ever been married?

2 A. No.

3 Q. Do you have any children?

4 A. No.

5 Q. Who do you live with at the present
6 time?

7 A. My father and my uncle.

8 Q. Father is?

9 A. Andre J. Denton.

10 Q. Andre J. Denton?

11 A. (Nodding head.)

12 Q. And your uncle?

13 A. Craig M. Denton.

14 Q. Craig M. Denton. You carry the name
15 Tucker, is that your mother's name?

16 A. That's my mother's maiden name.

17 Q. What's her first name?

18 A. Michelle.

19 Q. Michelle?

20 A. Yes.

21 Q. Where does she live?

22 A. That's not her last name.

23 Q. What's that?

24 A. That's not her last name.

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1 Q. Her last name is not Tucker?

2 MR. TAMARKIN: Not now.

3 Q. What's her last name now?

4 A. Jones.

5 Q. But her last name was Tucker when
6 you were born?

7 A. (Nodding head.)

8 MR. TAMARKIN: You have to say yes.

9 A. Yes.

10 Q. I'm sorry. Where does Michelle
11 live?

12 A. 2222 Langdon Farm.

13 Q. Cincinnati?

14 A. Yes.

15 Q. So your father is Andre Denton and
16 your mother is Michelle Tucker Jones, right?

17 A. (Nodding head.)

18 Q. True?

19 A. Yes.

20 Q. Let me just ask you, do you have any
21 brothers or sisters by these two individuals?

22 A. Yes.

23 Q. Do you have brothers and sisters by
24 Andre Denton and Michelle Tucker Jones?

1 A. Yes.

2 Q. How many brothers and sisters?

3 A. I have a total of three brothers and
4 two sisters.

5 Q. And all these three brothers and two
6 sisters have the same common parents?

7 A. No.

8 Q. That's my question, who -- how many
9 brothers and sisters do you have by the same
10 individuals, Andre Denton and Michelle Tucker
11 Jones?

12 A. Just me and my brother.

13 Q. And your brother's name is?

14 A. Alexander J. Tucker.

15 Q. Okay. And then is it my
16 understanding then that Jeff Denton then is the
17 brother of Michelle Tucker Jones?

18 A. No.

19 Q. That wouldn't be right. I'm sorry.
20 Jeff Denton is the brother of Andre Denton?

21 A. Yes.

22 Q. Can you tell me about your
23 employment since 1994 up through the present?

24 A. 1994, well, between 1994 and to the

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1 present, for nine months I was in Job Corps in
2 Atterbury, it's called Atterbury, it's in
3 Edinburg, Indiana.

4 Q. Atterbury, when was that?

5 A. In '94, November 2nd of '94 till
6 May -- well, six months, May of '95.

7 Q. You worked for the Job Corps?

8 A. Yeah.

9 Q. But give me the name, I just don't
10 understand the name, Attinbury?

11 A. That's the name of the facility,
12 Atterbury.

13 Q. Atterbury. Who was your employer,
14 was that the U.S. Government?

15 A. That's the U.S. Government.

16 Q. Okay. And what did you do for the
17 Job Corps?

18 A. I was trying to get a skill, trade
19 skill.

20 Q. Okay. What type of skill?

21 A. First I started off at building
22 department maintenance.

23 Q. Then what?

24 A. Welding.

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1 Q. Then what?

2 A. That's it.

3 Q. Okay.

4 A. Culinary artist, culinary artist
5 too.

6 Q. And then is this like a job, you
7 have permanent employment with them or does work
8 only last for a certain period of time?

9 A. If you complete.

10 Q. What's that?

11 A. If you complete.

12 Q. If you complete, what?

13 A. The trade, each trade takes a
14 certain amount of time.

15 Q. Okay. So how long were these trades
16 going to take?

17 A. Culinary would take eight months,
18 welding would take between six and nine months,
19 and building and department maintenance takes six
20 months.

21 Q. So from what you're telling me, you
22 apparently didn't complete the trades; is that
23 right?

24 A. No.

1 Q. And why not?

2 A. I left.

3 Q. So you left voluntarily?

4 A. Yes.

5 Q. This isn't something where you sign
6 up and you have to be there for a period of time,
7 is it, you can leave voluntarily?

8 A. If you're 18, you could voluntarily
9 leave yourself.

10 Q. And you did that, right?

11 A. Yes.

12 Q. Because you just didn't like it?

13 A. There was more things to it than
14 that.

15 Q. More what?

16 A. There was more things to it than
17 that.

18 Q. Tell me what it was.

19 A. For one, I was homesick.

20 Q. Okay. Anything else?

21 A. And that part up there, it was in a
22 very racist area of Indiana.

23 Q. So you're saying up where you
24 were -- Whereabouts in Indiana were you?

1 A. Edinburg, Indiana.

2 Q. Where is Edinburg, Indiana? I don't
3 know.

4 A. It's about 45 miles west of
5 Indianapolis, 20 miles east of Columbus, Indiana.

6 Q. So you didn't like the area because
7 it was very racist?

8 A. Yes.

9 Q. Can you give me some instances where
10 things happened that gave you an indication that
11 it was very racist?

12 A. For one, there's an army base across
13 the street. They had been dispatched over there
14 before numerous times for intimidations by the Ku
15 Klux Klan.

16 Q. What's the army base?

17 A. I couldn't tell you.

18 Q. Okay. Anything else?

19 A. Different treatment of minorities,
20 not just counting blacks, Spanish, all different
21 types minorities.

22 Q. I mean, how do you know there was
23 different treatment of minorities?

24 A. Because our shop teacher would

1 deliberately do things to try and get the blacks
2 in trouble. Like it's an automatic expulsion from
3 the program if you mess with fire alarms or
4 anything like that, and it was found out that he
5 did that.

6 Q. So you're saying your shop teacher
7 you believe was a racist; is that right?

8 A. It was proven.

9 Q. Okay. What's the shop teacher's
10 name?

11 A. I don't know, I can't remember.

12 Q. When you say it was proven, tell me
13 how it was proven.

14 A. They did an investigation that he
15 had blamed our class for hitting alarms, and then
16 when they took fingerprints, it was him.

17 Q. His fingerprints?

18 A. His fingerprints.

19 Q. Any other instances of racism that
20 you're aware of?

21 A. Not that I know of.

22 Q. So you left that job with the Peace
23 Corps and came back to Cincinnati?

24 A. Yes.

1 Q. And you left the job because you
2 were homesick and because of racism, right?

3 A. Yes.

4 Q. And then when you came back to
5 Cincinnati, what did you do?

6 A. What did I do, I believe I started
7 working for Jergens for a temporary service,
8 something like that.

9 Q. Jergens?

10 A. Yes, I believe so.

11 Q. Temporary service?

12 A. Yes.

13 Q. So just in point of time, you
14 worked, you've already testified, November 2nd,
15 1994 through May of '95 for the Peace Corps,
16 right?

17 A. Job Corps.

18 MR. TAMARKIN: Job Corps.

19 Q. Job Corps.

20 MR. TAMARKIN: I was going to say.

21 Q. When did you start working for
22 Jergens?

23 A. Probably like June. I didn't work
24 there that long.

1 Q. So June of 1995 through what period?

2 A. It was temporary, so I had to keep
3 finding temporary until I got on somewhere.

4 Q. So the job at Jergens was only a
5 temporary job?

6 A. Yeah. Then after that I worked at a
7 nursing home.

8 Q. What nursing home?

9 A. Arcadia Manor.

10 Q. Where is Arcadia Manor Nursing Home?

11 A. It's no longer called Arcadia Manor,
12 but it's on Ridge, off of Ridge.

13 Q. Okay. What did you do there?

14 A. I was basically a housekeeper.

15 Q. What did you do as a housekeeper?

16 A. Cleaned patients' rooms, bathrooms,
17 fed patients.

18 Q. And what period of time did you work
19 for Arcadia Manor Nursing Home?

20 A. For the summer.

21 Q. Summer of 1995?

22 A. '95, '96, yeah, that summer,
23 somewhere in there.

24 Q. Why did you leave that employment?

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1 A. Why did I leave that employment? I
2 was terminated from there.

3 Q. So you were fired?

4 A. Yes.

5 Q. And why were you fired?

6 A. Because the owner, I was switching
7 from second shift to first shift, and I -- We got
8 into an argument, me and the owner, because he
9 tried to make me clean up feces without a rubber
10 glove.

11 Q. And you objected to that and you
12 were terminated?

13 A. No, that's not what happened right
14 there.

15 Q. Well, what happened?

16 A. They sent me on lunch, and then when
17 I got back, he didn't terminate me, he told
18 someone else tell him to leave, I don't like him.

19 Q. Do you think there was any issues
20 involving racism relative to that?

21 MR. TAMARKIN: Objection.

22 A. I can't speak for that man.

23 Q. Was the individual who terminated
24 you, was that individual white?

1 A. He was foreign, that's all I know.

2 Q. Okay. You weren't terminated from
3 your job at Jergens, were you?

4 A. No.

5 Q. You just left voluntarily?

6 A. It was just temp.

7 Q. Part-time job?

8 A. Temp to hire, they didn't pick me
9 up.

10 Q. Okay. So then what's your next
11 employment after Arcadia?

12 A. I ran a store with my friend, my
13 uncle.

14 Q. Who's the friend?

15 A. Denarius.

16 Q. What's the name?

17 A. Denarius.

18 Q. Last name?

19 A. Foster.

20 Q. And who's your uncle?

21 A. Craig Denton.

22 Q. What kind of store did you run?

23 A. It was basically a corner
24 store/clothing store, clothing, apparel.

1 Q. What's the name of the store?

2 A. It was called Foster's Variety.

3 Q. And where was it located?

4 A. 3804 Z I N S L E.

5 Q. What was it?

6 A. 3804 Z I N S L E.

7 Q. And that's where you live, right?

8 A. That's across the street.

9 Q. Oh.

10 A. Down the street.

11 Q. It's called Foster's what?

12 A. Variety and Apparel.

13 Q. Where is that located, in Kennedy
14 Heights?

15 A. Yes. It's no longer in existence.

16 Q. What period of time did you work
17 there?

18 A. I worked there from '96, I think it
19 was April of '96 to I think it was September --
20 no, it was somewhere between September and
21 February.

22 Q. Somewhere between September of '96
23 through February of 1997?

24 A. Yes.

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1 Q. Right?

2 A. Yes.

3 Q. Okay. Did you work there 40 hours a

4 week?

5 A. Probably more than that.

6 Q. And how were you paid?

7 A. I was paid under the table.

8 Q. Okay. I mean, would you get paid by

9 the hour?

10 A. Yeah, basically.

11 Q. Was there a set amount? I

12 understand what you're saying when you say under

13 the table, there was no indication you were

14 getting money, but did you have an understanding

15 that you were going to get paid like \$5 an hour?

16 A. It was basically like between 8 and

17 10.

18 Q. Okay. And this was cash, right?

19 A. Yes.

20 Q. And did you make that much money, 8

21 to \$10 and 40 hours a week?

22 A. Yes.

23 Q. So it was pretty good money, right?

24 A. Yeah.

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1 Q. Did it go out of business, is that
2 why you left there, or what happened?

3 A. It went out of business.

4 Q. Then where did you work?

5 A. Quaker State/Jiffy Lube.

6 Q. When did you start working for them?

7 A. February '98.

8 Q. Okay. Until when?

9 A. Until September, between September
10 5th and 15th of '99.

11 Q. Now, you said you left Foster's
12 Variety in '97, and you then say you didn't start
13 with Quaker until '98. Were you out of work for a
14 year?

15 A. That's the best knowledge that I
16 remember.

17 Q. So you're out of work for about one
18 year, right, does that sound right?

19 A. That's the best knowledge of
20 remembering that far back.

21 Q. How did you support yourself if
22 you're not working?

23 MR. TAMARKIN: Objection. You can
24 answer.

1 A. I'm not quite sure on the dates.

2 Q. Okay.

3 A. I couldn't tell you.

4 Q. So what did you do for Quaker State?

5 A. First I started off at their car
6 wash.

7 Q. Which Quaker State, by the way?

8 A. I worked at many of them.

9 Q. Many of them?

10 A. Yeah. I first started on Kenwood
11 Road, Kenwood Road, a block south of Pfeifer.

12 Q. Okay.

13 A. At the car wash, running the car
14 wash.

15 Q. All right. Then where, what did you
16 do after the car wash?

17 A. I moved down to their other store,
18 which is Springfield Pike. They were starting to
19 cut my hours.

20 Q. Okay.

21 A. And from being a lube, I was trained
22 as a lube tech and all of that, and then I started
23 running the Springfield Pike store.

24 Q. Okay. How long did you work for

1 Quaker State?

2 A. Quaker State, after a year had
3 passed, Quaker State was no longer in existence,
4 Jiffy Lube took over, so they closed the store on
5 Springfield Pike. They gave us a two-week grace
6 period to either work or take two weeks off. And
7 then I moved to East Kemper Road store.

8 Q. Jiffy Lube East Kemper Road?

9 A. Yes.

10 Q. Okay.

11 A. I worked there until they found me a
12 store, and then I moved down to Madisonville, at
13 Madison and Red Bank.

14 Q. And what period of time are we
15 talking about there now?

16 A. That was two weeks later after that
17 little -- I didn't take the layoff.

18 Q. Is that in September of 1999 or --

19 A. No, that's when I left there. That
20 was in between -- maybe April, I think they took
21 over in April, April.

22 Q. So when you say Quaker State, it's
23 Quaker State/Jiffy Lube, and you worked there from
24 February of 1998 through September of '98?

1 A. 'Ninety-nine.

2 Q. 'Ninety-nine. And which store were
3 you at when you left in September of '99?

4 A. Madison and Red Bank.

5 Q. And that was a Jiffy Lube, right?

6 A. Yes.

7 Q. Why did you leave?

8 A. Basically I was working there and I
9 was very more experienced than most of the people
10 that were coming in, and they were getting

11 promotions over me, and when I complained about
12 certain things that was going on that wasn't
13 supposed to be going on, they called me basically
14 an instigator, said I started things, and --

15 Q. Who called you an instigator and who
16 said you started things?

17 A. Well, we had -- I had an assistant
18 manager, a manager, a DS, district manager, that
19 come around and checked the stores, and then
20 there's a person over there, so I had to go in
21 chain of command basically.

22 Q. Who was your immediate supervisor?

23 A. Tim Sizemore.

24 Q. And what was his position?

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1 A. Manager.

2 Q. Was he a manager -- you were the
3 manager of the store, right?

4 A. No.

5 Q. What was --

6 A. He was the manager.

7 Q. What was your position with the
8 Madisonville Jiffy Lube, what was your position?

9 A. Just a tech.

10 Q. You were just a technician?

11 A. Yes.

12 Q. And you reported to the manager, who
13 was Tim Sizemore, right?

14 A. Yeah.

15 Q. And he fired you, right?

16 A. No.

17 Q. What did he say to you?

18 A. He referred -- He called up the
19 district manager and complained to the district
20 manager about many other things, just not what I
21 had complained about.

22 Q. Who was the district manager?

23 A. Oh, what was his name -- Ken -- I
24 can't think of his last name.

1 Q. Okay. And he complained to him that
2 you were an instigator and were a troublemaker; is
3 that right?

4 A. No, no.

5 Q. What did he complain --

6 A. Incorrect.

7 Q. What did he complain to him?

8 A. He complained that I was, I was
9 stubborn, I was hard to get a point across to. So
10 he thought he can get him to get the point across
11 to me.

12 Q. Tim thought that he could get the
13 regional manager to get the point across to you?

14 A. Yes.

15 Q. What's the regional manager's name
16 again?

17 A. Ken, I don't even remember his last
18 name.

19 Q. So did Ken come and talk to you?

20 A. Yes.

21 Q. What did he tell you?

22 A. He asked me what was going on, and I
23 told him everything that was going on and I told
24 him all the stuff, I said I'm following all the

1 rules, everything. They complained about me not
2 cleaning the pit. I was the pit man. So when the
3 pit man starts, he has to clean up the thing
4 before he leaves. They said I didn't clean it up.
5 And when I complained about other things that was
6 going on, he said mind your own business.

7 Q. Ken said mind your own business?

8 A. Yes.

9 Q. And what was your response?

10 A. I didn't have no response to that.

11 Q. Okay. Did you continue your
12 employment then with Jiffy Lube?

13 A. Yes.

14 Q. And then how was it terminated?

15 A. Well, it was basically terminated,
16 more and more stuff projected as far as the pit
17 man basically runs everything as far as when a car
18 comes in and everything is set up, they can't do
19 nothing without my say-so, you see what I'm
20 saying, and without me saying something, anybody
21 can get hurt, especially me, I can get hurt
22 faster. So they were doing things that they
23 weren't supposed to do without clearing with me.
24 They got to clear with me first before they lift a

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1 car up or do anything, start a car up, make sure
2 I'm clear from that. And I got tired of all that
3 stuff, I almost got my hands crushed, I got
4 manifold burns to prove all that stuff. And after
5 I left there, a whole lot of people got fired.

6 Q. Well, did you get fired?

7 A. No. Basically they wanted me to
8 work out my problem with the manager. I said I
9 rather go somewhere else.

10 Q. So you quit voluntarily?

11 A. Yeah. I could have, basically I
12 could have talked it out with them, but not for
13 the experience that I got.

14 Q. You didn't think it was worth it,
15 right?

16 A. No.

17 Q. Okay. So you voluntarily left your
18 employment with Jiffy Lube in September of '99?

19 A. Yeah.

20 Q. Then where did you go to work?

21 A. Columbia Oldsmobile.

22 Q. And when did you start your work
23 with Columbia Oldsmobile?

24 A. Less than a week later.

1 Q. October of '99?

2 A. No, same month.

3 Q. September of '99?

4 A. Yes.

5 Q. Okay. Now, was your uncle, Jeff
6 Denton, already working there?

7 A. Yes.

8 Q. Did he help find you the job?

9 A. Yes, he referred me.

10 Q. So when you left Jiffy Lube, you
11 talked to your uncle, Jeff Denton, and he said why
12 don't you apply at Columbia Oldsmobile?

13 A. No.

14 Q. How did it go?

15 A. He said why don't you come up here,
16 they want to speak with you.

17 Q. Columbia Oldsmobile?

18 A. Yes.

19 Q. And what was your uncle's position
20 with Columbia Oldsmobile?

21 A. I had no idea at that point.

22 Q. And what position did you apply for?

23 A. I basically applied for a lube tech.

24 Q. Is that the job your uncle was

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1 doing?

2 A. I don't know, I don't know at that
3 time.

4 Q. Did you get the job as lube tech?

5 A. No.

6 Q. What job did you get?

7 A. Car wash.

8 Q. And what was the rate of pay?

9 A. Seven.

10 Q. Seven dollars an hour?

11 A. Yes.

12 Q. And then you worked at Columbia from
13 September of '99 through what time, when were you
14 terminated?

15 A. I don't remember.

16 Q. Please?

17 A. I don't remember.

18 Q. You don't know the year?

19 A. 2000, I don't know the exact date.

20 Q. June of 2000?

21 A. I guess.

22 Q. So you were at Columbia, September,
23 October, November, December, four plus six, you
24 were there about ten months, right?

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1 A. (Nodding head.)

2 Q. True?

3 A. True.

4 Q. Okay. Then where did you go to
5 work?

6 A. For my uncle.

7 Q. Which uncle?

8 A. O C E A, T U C K E R. J in the
9 middle.

10 Q. Middle initial J?

11 A. Yeah.

12 Q. So it's Ocea J. Tucker?

13 A. Yes.

14 Q. What's he do?

15 A. He's a detail -- He owns a detail
16 shop.

17 Q. What's the name of his detail shop?

18 A. OC's Professional.

19 Q. Where are they located?

20 A. At this time it was at Reading Road.
21 It's no longer there.

22 Q. Where is it now?

23 A. It's at 112 West Wyoming Avenue. It
24 was called OC's Professional Auto Polishers.

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1 MR. TAMARKIN: Is that in Lockland?

2 A. Yes.

3 Q. OC's?

4 A. Professional Auto Polishers.

5 Q. Auto Polishers.

6 MR. TAMARKIN: I know where that
7 is.

8 Q. You say it's in Lockland?

9 A. Yes.

10 Q. And that's where you're working now?

11 A. No, that's where it is now. I was
12 working there at the Reading one.

13 Q. How long did you work there?

14 A. I only worked there from, until I
15 started at Moser Dodge. I started at Moser Dodge
16 in September.

17 Q. You worked there from June of 2000?

18 A. No, I didn't start until actually
19 July.

20 Q. July of 2000 until when?

21 A. Until, Moser Dodge, until August, I
22 worked there like a month.

23 Q. August of 2000?

24 A. The end of August.

1 Q. What did you make there at OC's?

2 A. I made \$10 an hour.

3 Q. Ten dollars an hour?

4 A. Yeah.

5 Q. What were you making when you left
6 Columbia?

7 A. The same as I told you before,
8 seven.

9 Q. Seven dollars an hour?

10 A. Yes.

11 Q. So you left Columbia and you made
12 more by working at OC's, right?

13 A. Yes.

14 Q. You only worked there for about a
15 month, correct, at OC's?

16 A. Yes.

17 Q. Then where did you go to work?

18 A. Moser Dodge.

19 Q. Where are they located?

20 A. On Madison Road.

21 Q. In Cincinnati?

22 A. Yes.

23 Q. What did you do there?

24 A. Lot tech and new car delivery, new

1 and used car delivery.

2 Q. You started there in August of 2000?

3 A. No, September.

4 Q. September of 2000. Until when?

5 A. February 14th, '01.

6 Q. Who was your supervisor?

7 A. Earl Mills.

8 Q. Earl Minch?

9 A. Mills.

10 Q. And what was your rate of pay there?

11 A. Seven dollars.

12 Q. Moser Dodge?

13 A. Yes.

14 Q. And why did you leave there?

15 A. Lack of production on cars. Lack of
16 sales, so they had to cut back and laid me off.

17 Q. So you were laid off, right?

18 A. Yes.

19 Q. Then where did you go to work?

20 A. Filed for unemployment.

21 Q. And are you working now?

22 A. No.

23 Q. So you've been on unemployment from
24 February of 2002 until the present; is that right?

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1 A. 2001.

2 Q. I thought you worked at Moser Dodge
3 from September of 2000 through February 14th,
4 2001?

5 A. Then I filed for unemployment.

6 Q. I'm sorry, yeah, unemployment from
7 February 2001 to the present; is that right?

8 A. Yes.

9 Q. So you've been on unemployment
10 almost coming up two years, right?

11 A. Yes.

12 Q. You can't find any work?

13 A. No.

14 Q. You're physically capable of
15 working, correct?

16 A. Up until, when was it, September I
17 think it was, September or October, when I was in
18 a car accident, I was off for another six months,
19 so I was unable to even move my shoulder or
20 anything.

21 Q. When were you in a car accident?

22 A. I think it was September 29th, one
23 of those.

24 Q. September 29th, what year?

1 A. Last year.

2 Q. 2001?

3 A. Yeah.

4 Q. And then you're saying you were
5 physically unable to work for about six months
6 from that date?

7 A. Yes.

8 Q. So from September through March of
9 2002 you were unable to work, right?

10 A. Yes.

11 Q. Right?

12 A. Yes.

13 Q. Okay. What was your injury in your
14 car accident?

15 A. What was my injury? I got
16 rear-ended and it was a neck and shoulder injury.

17 Q. So then your last employment would
18 have been with Moser Dodge, right?

19 A. I think I worked for my uncle right
20 before that accident. And then after that I
21 filed.

22 Q. Are you presently receiving
23 unemployment?

24 A. No. It just ended in June.

1 Q. So you're not getting any benefits;
2 is that right?

3 A. No. They told me to try back.

4 Q. You are physically able to work now,
5 right?

6 A. Now I am.

7 Q. And you haven't been able to find a
8 job?

9 A. Correct.

10 (Defendants' Exhibit No. 1 was marked for
11 identification.)

12 Q. Let me show you some exhibits here.
13 Exhibit 1, let's see here --

14 MR. TAMARKIN: If you're going
15 through exhibits, I need copies.

16 MR. LANGENBAHN: I've got them
17 here.

18 MR. TAMARKIN: Well, I have to go
19 to the men's room a second.

20 MR. LANGENBAHN: Okay.

21 (Brief recess.)

22 (Mr. Denton left the room.)

23 BY MR. LANGENBAHN:

24 Q. Sir, let me show you what we've

1 marked as Defense Exhibit 1. Is this a copy of
2 your application for employment with Columbia
3 Oldsmobile?

4 A. Yes.

5 Q. And if you go to the second page, is
6 that your signature on the second page?

7 A. Yes.

8 Q. Dated October 6, 1999?

9 A. Yes.

10 Q. And it gives the information that
11 your current address was 3727 Zinsle Avenue,
12 Cincinnati, Ohio 45213, correct?

13 A. Correct.

14 Q. And that your father's -- the person
15 to notify in case of an emergency is Andre Denton,
16 who is your father, correct, and he lives at the
17 same address, right?

18 A. Yes.

19 Q. Where does Jeff Denton live, does he
20 live near you?

21 A. He was living there at that time.

22 Q. So when you made the application,
23 you lived -- Jeff Denton was living at 3727 Zinsle
24 Avenue also?

1 A. Yeah, for a short time.

2 Q. And you still live on 3727 Zinsle
3 Avenue, right?

4 A. Yes.

5 Q. You indicated you're applying for
6 the position of oil change/car wash, correct?

7 A. Yes.

8 Q. And your salary requirements is 7 to
9 \$8, right?

10 A. Yes.

11 Q. And you're available at any time,
12 right?

13 A. Yes.

14 Q. And you acknowledge that you were
15 not presently employed, right; it says are you now
16 employed, and you marked no, right?

17 A. Yeah.

18 Q. And you indicate you attended
19 Woodward High School, right?

20 A. Yes.

21 Q. And you also indicated you were a
22 certified lube technician?

23 A. Yes.

24 Q. You confirm that you have no

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1 military service, right?

2 A. Right.

3 Q. And your references were Jeffrey

4 Denton, your uncle, right?

5 A. Yes.

6 Q. And Michelle Jones, who is your

7 mother?

8 A. Yes.

9 Q. Cashier, where was she cashier?

10 A. Kroger's.

11 Q. Which Kroger's?

12 A. Walnut Hills.

13 (Defendants' Exhibits Nos. 2 and 3 were marked for

14 identification.)

15 (Mr. Denton entered the room.)

16 Q. Exhibit 2, this is a copy of your
17 driver's license and your Social Security card; is
18 that right?

19 A. Yes.

20 Q. Columbia Oldsmobile needed that
21 information because you were going to be driving
22 some of their vehicles, right?

23 A. Yes.

24 Q. Exhibit 3 is a payroll document

1 dated October 5th indicating that you were being
2 hired effective October 5th, 1999 at \$7 an hour,
3 correct?

4 A. Correct.

5 Q. What was your job?

6 A. It says carwash.

7 Q. Car wash, right?

8 A. That's what it says.

9 Q. So after a car was serviced, you
10 would then wash the car; is that right?

11 A. Yes.

12 Q. Did Columbia have other car washers?

13 A. Yes.

14 Q. Who were the other car washers?

15 A. Gary Uhlfelder, then there were two
16 detail men.

17 Q. Who were the detail people?

18 A. Eddie Berkley and Eric.

19 Q. When you say detail, what would they
20 do?

21 A. They get cars ready to put on
22 display like for new cars going out or in the
23 front office.

24 Q. So they would polish them up real

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1 good; is that right?

2 A. Yes.

3 (Defendants' Exhibit No. 4 was marked for
4 identification.)

5 Q. I'm going to show you Exhibit 4.
6 Were you terminated on February 24, 2000?

7 A. Yes, I guess so. It says here
8 terminated.

9 MR. TAMARKIN: Well --

10 Q. Do you know why you were terminated?

11 MR. TAMARKIN: What did I tell you,
12 if you don't know -- if you know, if you remember
13 that, that's fine, don't guess.

14 A. No.

15 Q. The question I had for you was do
16 you recall that you were terminated on February
17 24th of 2000?

18 A. Yes.

19 Q. Can you tell me why you were
20 terminated at that time?

21 A. I don't know.

22 Q. Do you recall getting involved in an
23 incident with Bob Branigan in the front area of
24 the Service Department?

1 A. Bob was not there.

2 Q. Who was there?

3 A. Service writers, dispatch, dispatch
4 guy, and the mechanics and my uncle.

5 Q. Uncle being Jeff Denton; is that
6 right?

7 A. Yes.

8 Q. Were you threatening Scott Dick at
9 that time, Scott Dick?

10 A. No.

11 Q. Were you making some threats to a
12 Rob Krista, K R I S T A?

13 A. I don't know Rob.

14 Q. Okay. Was there an incident up
15 front where you were saying motherfucker and a lot
16 of cussing going on?

17 A. That was second round.

18 Q. Second round, what do you mean
19 second round?

20 A. Second termination.

21 Q. Okay. The second termination
22 occurred June 26th, 2000, right, true?

23 A. What?

24 Q. The second termination occurred June

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1 Q. Is that right?

2 A. Yes.

3 Q. Okay. So what was discussed at this
4 meeting when you saw this document, Exhibit 6?

5 A. What was discussed, they wanted to
6 know what I said about Mr. Joseph and Karl Stewart
7 and Bob Branigan.

8 Q. Okay. What did you say, what did
9 you tell them that you said about Mr. Joseph? You
10 can't remember?

11 A. I said I don't know him, I can't say
12 nothing about him.

13 Q. What did you tell them you said
14 about Karl Stewart?

15 A. I said that he's, he supposedly is
16 looking out for us, but he let this fuck boy do
17 whatever he wants.

18 Q. Okay. So you said Mr. Stewart is
19 supposed to be looking out for us; who did you
20 mean when you said "us"?

21 A. Everyone in the shop.

22 Q. But he's letting fuck boy get away
23 with everything?

24 A. Yes.

1 Q. Now, when you said "fuck boy" to
2 Mr. Stewart, did he know who fuck boy --

3 A. Yeah, he knew who fuck boy was.

4 Q. Okay. What did Mr. Stewart say
5 relative to your statement about, your statement
6 about Mr. Stewart you're supposed to be looking
7 out for us but you're letting fuck boy get away
8 with everything?

9 A. He just looked at me and started
10 laughing.

11 Q. He didn't respond?

12 A. He laughed first.

13 Q. He laughed first, then what did he
14 say?

15 A. Then he looked at Bob and said who's
16 fuck boy, and he said that's a name that they call
17 Gary back in the shop.

18 Q. Then what did Karl say?

19 A. Karl was like, okay, next thing, he
20 went on to the next one, what did you say about
21 Jim. I said Jim claims to be doing so much work,
22 I never see him, he's always on vacation, and then
23 he comes back trying to run his mouth.

24 Q. Okay. What did Jim Peters or Karl

1 Stewart say about that?

2 A. They just tried to say that I said
3 something different.

4 Q. And then what about Bob Branigan,
5 what did you say about him?

6 A. I said Bob Branigan sat there the
7 whole time every time I complained, and I said it
8 seems like he's your fuck boy too.

9 Q. Now, this is in front of all these
10 people, right?

11 A. Yeah.

12 Q. Who are your supervisors and
13 superiors, right?

14 A. No, supervisors.

15 Q. They're your superiors too, right?

16 MR. TAMARKIN: Objection.

17 A. Supervisors.

18 Q. Why aren't they your superiors?

19 MR. TAMARKIN: Objection. You
20 don't have to answer that.

21 Q. They're your supervisors, right?

22 A. Correct.

23 Q. You knew they had the right to fire
24 you, right?

1 A. Correct.

2 Q. And you're calling them fuck boy?

3 A. No.

4 Q. You called Bob Branigan fuck boy,
5 right?

6 A. Yes.

7 Q. And you knew that Bob Branigan had a
8 right to fire you, right?

9 A. No.

10 Q. Well, he had already fired you
11 before, he had already fired you before March
12 16th, 2000, hadn't he?

13 A. Yeah, that's when Karl Stewart
14 intervened. He did like this (indicating) and
15 ripped it and said we're not going with this and
16 just threw it up in the air. He said you should
17 have talked to me first.

18 Q. Telling that to Bob Branigan?

19 A. Yes. And then he pointed at this,
20 Bob, like this, and said don't get so emotional
21 behind this.

22 Q. And these conversations all occurred
23 when you saw this letter of March 16, 2000, right?

24 A. Yes.

1 A. Huh-uh.

2 Q. Do you think maybe calling somebody
3 a fuck boy might be causing trouble?

4 MR. TAMARKIN: Objection. It's
5 argumentative.

6 Q. Huh?

7 A. No.

8 Q. Then what happened on June 26th that
9 led to your termination, what happened?

10 A. I don't know, I thought it was a
11 different day.

12 Q. Let's take a look at Exhibit 7.

13 (Defendants' Exhibit No. 7 was marked for
14 identification.)

15 Q. It says you're being terminated as
16 of June 26, 2000 for your continual harassment and
17 threatening of fellow employees. Did you ever get
18 this document?

19 A. It was sitting on the table.

20 Q. So this is the same thing, you had a
21 meeting in Karl Stewart's office and this document
22 was sitting on the table?

23 A. No.

24 Q. No what?

1 Q. What events precipitated this, the
2 fact that you were terminated on June 26, 2000?

3 A. I don't understand what -- What you
4 mean by that?

5 Q. Well, did Columbia Oldsmobile have a
6 reason for terminating you on June 26, 2000?

7 A. Everybody has a reason, but I don't
8 think it was a just reason.

9 Q. Okay. What was the reason that you
10 understood, whether it was just or unjust, that
11 Columbia Oldsmobile had to terminate you on June
12 26, 2000?

13 A. That's the second time, right?

14 Q. Second time.

15 A. Well, they said, they asked me about
16 the fuck boy thing, but they also tried to tell me
17 it was for threatening someone with a golf club
18 and a gun, a baseball bat and a chain, all at the
19 same time. I don't think I can carry all that.
20 (Mr. Denton entered the room.)

21 Q. Where did this conversation occur
22 that you learned the reasons why Columbia
23 Oldsmobile --

24 A. Right before I told them I don't

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1 sign shit but my check.

2 Q. So this was in Karl Stewart's
3 office, correct?

4 A. Yes.

5 MR. TAMARKIN: When you can break,
6 it's five after.

7 Q. Karl Stewart and Jim Peters were
8 present, right?

9 A. Yes.

10 Q. They then told you the reason why
11 you were being terminated, correct?

12 A. Yes.

13 Q. And what was the reason that they
14 gave you?

15 A. They said that I chased someone
16 through the shop with a baseball bat, a chain, a
17 knife, a throwaway pistol, and a golf club.

18 Q. And did that happen?

19 A. No.

20 Q. Did any of it happen?

21 A. Did any of what happen?

22 Q. Any of the allegations that you
23 chased somebody through the shop with any of the
24 items.

1 A. No, that's not what happened.

2 Q. Tell me what happened.

3 A. This was the second time.

4 Q. Right.

5 A. I was doing all my work, getting
6 ready to go on lunch, and I was waiting for Gary
7 to come back, and it was like three hours later
8 and then Jim comes in and says come with me,
9 young'un.

10 Q. Who said that?

11 A. Jim Peters.

12 Q. Said come with me, young'un?

13 A. Yeah. And then this was sitting on
14 the thing already with a carbon copy and he pushed
15 it forward like that. And I looked at it and he
16 said you agree with this and sign this. I told
17 him I don't sign shit but my check.

18 Q. You don't sign shit with your check?

19 A. But my check.

20 Q. Oh, you don't sign shit but your
21 check?

22 A. Yeah.

23 Q. He wanted you to sign Exhibit 7 is
24 what you're saying?

1 Q. And Jim Peters did the talking; is
2 that right?

3 A. Both of them.

4 Q. Okay. But Jim Peters is the one
5 that wanted you to sign Exhibit 7; is that right?

6 A. Incorrect.

7 Q. Karl Stewart wanted you to sign
8 Exhibit 7?

9 A. Correct.

10 Q. And you said I don't sign shit but
11 my check?

12 A. Yeah.

13 Q. And then did they ask you to leave?

14 A. No. I got up and stepped out. I
15 got up and walked out.

16 Q. Did you understand that you had been
17 terminated?

18 A. No.

19 Q. Can you read this letter for me?

20 A. "You are being terminated as of June
21 26, 2000 for your continual harassment and
22 threatening of fellow employees."

23 Q. All right. Did you understand that
24 Exhibit 7 meant that you were being terminated at